

Absent.

Baker.	Morse.
Bedford.	O'Quinn.
Boyd.	Petsch.
Coltrin.	Ramsey.
Cunningham.	Reader.
Dunlap.	Rountree.
Gilbert.	Sherrill.
Goodman.	Sullivan.
Holder.	Terrell
Lockhart.	of Val Verde.
Martin.	

Absent—Excused. ✓

Fuchs.

BILL RECOMMENDED.

On motion of Mr. Young, House bill No. 214 was recommitted to the Committee on Education.

BILL RE-REFERRED.

On motion of Mr. Beck, House bill No. 172 was withdrawn from the Committee on Common Carriers and referred to the Committee on Highways and Motor Traffic.

SENATE BILLS ON FIRST READING.

The following Senate bills, received from the Senate today, were laid before the House, read severally first time and referred to the appropriate committees, as follows:

Senate bill No. 53, to the Committee on Criminal Jurisprudence.

Senate bill No. 54, to the Committee on Criminal Jurisprudence.

Senate bill No. 221, to the Committee on Education.

Senate bill No. 265, to the Committee on Education.

Senate bill No. 373, to the Committee on Education.

RECESS.

On motion of Mr. Patterson, the House, at 1 o'clock p. m., took recess to 9:30 o'clock a. m. tomorrow.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following committees have filed favorable reports on bills, as follows:

Common Carriers: House bill No. 356.

Education: Senate bill No. 84, House bills Nos. 386, 455 and 560.

Municipal and Private Corporations: House bills Nos. 36 and 317.

Revenue and Taxation: House bills Nos. 425, 258 and 262.

Judiciary: House bills Nos. 424, 212, 298, 409, 647, 106, 353 and 39.

Public Health: House bills Nos. 453 and 454.

Liquor Traffic: House bill No. 482.

The following committees have filed adverse reports on bills, as follows:

Insurance: House bill No. 34.

Judiciary: House bills Nos. 211 and 217.

State Affairs: House bill No. 95.

REPORT OF THE COMMITTEE ON ENROLLED BILLS.

Committee Room,

Austin, Texas, February 18, 1931.

Hon. Fred H. Minor, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 21, Relative to World's Fair.

Have carefully compared same and find it correctly enrolled.

COX of Lamar, Chairman.

SEVENTEENTH DAY.

(Continued.)

(Thursday, February 19, 1931.)

The House met at 9:30 o'clock a. m., and was called to order by Speaker Minor.

HOUSE BILL NO. 398 ON PASSAGE TO ENGROSSMENT.

The Speaker laid before the House, as pending business, on its passage to engrossment,

H. B. No. 398, A bill to be entitled "An Act making certain emergency appropriations out of the general revenue of the State of Texas for the several institutions and departments of State government named herein, for the balance of the fiscal year ending August 31, 1931, and declaring an emergency."

The bill having been read second time on yesterday with the following point of order by Mr. Pope, pending:

Point of Order.

To lines 17 to 19 and lines 25 and 26, House bill No. 398, page 5, be-

cause in conflict with the Rule of this House fixed by the ruling of the chair on amendment offered by me to the Agricultural Department as follows:

Amend House bill No. 398 by adding between lines 12 and 13, page 2, the following:

"Any person, firm, or corporation or the agent or representative of any person, firm or corporation who shall wilfully or negligently make any inaccurate or false test of milk, cream or butter fat, or make any inaccurate or false return of account of any milk, cream or butter fat test or shall have in his possession any false milk, cream or butter fat weight, scale or testing device, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars and not more than twenty-five dollars for each such offense. To aid in enforcing the provisions of the foregoing the sum of \$1750.00 is appropriated for the year ending August 31, 1931. (No inspector to receive more than \$125.00 per month.)

(Amend caption accordingly.)"

The appropriation bill is before the House under Section 35 of Article 3 of our Constitution and the amendment offered by me to the Agricultural Department was germane to that department and should not have been ruled out on a point of order, but since it has been ruled out such ruling becomes the law of this House and for same reason my point of order should be sustained.

POPE.

The Speaker overruled the point of order.

Mr. Veatch offered the following amendment to the bill:

Amend House bill No. 398, on page 4, by striking out in line 10 "\$31,700" and insert in lieu thereof "\$26,000"; strike out in line 11 "\$60,000" and insert in lieu thereof "\$51,000."

Mr. Laird offered the following substitute for the amendment by Mr. Veatch:

Amend House bill No. 398, page 4, line 10, change the figures "\$31,700" to "\$16,000," and line 11, change the figures "\$60,000" to "\$30,000."

Mr. Davis moved the previous question on the pending amendments and the bill, and the main question was ordered.

Question first recurring on the substitute amendment, it was lost by the following vote:

Yeas—35.

Adams of Harris.	Harman.
Adams of Jasper.	Holland.
Akin.	Jones of Shelby.
Baker.	Justiss.
Barron.	Kennedy.
Bounds.	Laird.
Brice.	Lilley.
Coltrin.	Pope.
Cox of Lamar.	Ramsey.
Dale.	Richardson.
Daniel.	Rogers.
Dodd.	Savage.
Elliott.	Smith of Wood.
Farmer.	Strong.
Ford.	Terrell
Fuchs.	of Cherokee.
Goodman.	Vaughan.
Grogan.	Wyatt.

Nays—95.

Adamson.	Holloway.
Adkins.	Hoskins.
Albritton.	Howsley.
Alsup.	Hughes.
Anderson.	Jackson.
Beck.	Johnson
Boyd.	of Dallam.
Bradley.	Johnson
Brooks.	of Dimmit.
Burns of Walker.	Jones of Atascosa.
Burns	Kayton.
of McCulloch.	Keller.
Carpenter.	Lasseter.
Caven.	Lee.
Claunch.	Lemens.
Cox of Limestone.	McCombs.
Cunningham.	McDougald.
Davis.	McGill.
DeWolfe.	McGregor.
Donnell.	Magee.
Dowell.	Mathis.
Dunlap.	Metcalfe.
Dwyer.	Moffett.
Engelhard.	Moore.
Farrar.	Munson.
Ferguson.	Murphy.
Finn.	O'Quinn.
Fisher.	Patterson.
Forbes.	Ratliff.
Gilbert.	Ray.
Giles.	Reader.
Graves.	Sanders.
Greathouse.	Satterwhite.
Hanson.	Scott.
Hardy.	Shelton.
Harrison	Sherrill.
of El Paso.	Smith of Bastrop.
Harrison	Sparkman.
of Waller.	Stephens.
Hatchitt.	Stevenson.
Herzik.	Steward.
Hill.	Sullivant.
Hines.	Tarwater.
Holder.	

Terrell	Walker.
of Val Verde.	Warwick.
Towery.	West of Coryell.
Turner.	West of Cameron.
Van Zandt.	Westbrook.
Veatch.	Wiggs.
Wagstaff.	Young.

Absent.

Bedford.	Long.
Bond.	Martin.
Bryant.	Mehl.
Coombes.	Morse.
Duvall.	Nicholson.
Hefley.	Olsen.
Hubbard.	Petsch.
Johnson of Morris.	Rountree.
Leonard.	Weinert.
Lockhart.	

Question recurring on the amendment by Mr. Veatch, yeas and nays were demanded.

The amendment was lost by the following vote:

Yeas—52.

Adams of Harris.	Grogan.
Adams of Jasper.	Hanson.
Adamson.	Harman.
Adkins.	Hatchitt.
Akin.	Holland.
Albritton.	Jones of Shelby.
Anderson.	Justiss.
Baker.	Kennedy.
Barron.	Laird.
Bounds.	Lilley.
Boyd.	Olsen.
Brice.	Pope.
Bryant.	Ramsey.
Claunch.	Richardson.
Coltrin.	Rogers.
Cox of Lamar.	Savage.
Dale.	Scott.
Daniel.	Sherrill.
Dodd.	Smith of Wood.
Donnell.	Strong.
Elliott.	Terrell
Farmer.	of Cherokee.
Farrar.	Towery.
Fisher.	Vaughan.
Forbes.	Veatch.
Ford.	Wyatt.
Goodman.	

Nays—72.

Alsup.	Cunningham.
Beck.	Davis.
Bradley.	DeWolfe.
Brooks.	Dunlap.
Burns of Walker.	Engelhard.
Burns	Ferguson.
of McCulloch.	Finn.
Carpenter.	Fuchs.
Caven.	Gilbert.
Cox of Limestone.	Giles.

Greathouse.	Murphy.
Hardy.	O'Quinn.
Harrison	Patterson.
of Waller.	Ratliff.
Herzik.	Ray.
Hill.	Reader.
Hines.	Sanders.
Holder.	Shelton.
Holloway.	Smith of Bastrop.
Hoskins.	Sparkman.
Howsley.	Stephens.
Hughes.	Stevenson.
Jackson.	Steward.
Johnson	Sullivan.
of Dallam.	Tarwater.
Johnson	Terrell
of Dimmit.	of Val Verde.
Jones of Atascosa.	Turner.
Lee.	Van Zandt.
Lemens.	Wagstaff.
McCombs.	Walker.
McDougald.	Warwick.
McGill.	Weinert.
McGregor.	West of Coryell.
Mathis.	West of Cameron.
Metcalf.	Westbrook.
Moffett.	Wiggs.
Moore.	Young.
Munson.	

Absent.

Bedford.	Keller.
Bond.	Lasseter.
Coombes.	Leonard.
Dowell.	Lockhart.
Duvall.	Long.
Dwyer.	Magee.
Graves.	Martin.
Harrison	Mehl.
of El Paso.	Morse.
Hefley.	Nicholson.
Hubbard.	Petsch.
Johnson of Morris.	Rountree.
Kayton.	Satterwhite.

House bill No. 398 was then passed to engrossment.

HOUSE BILL NO. 398 ON THIRD READING.

Mr. Sanders moved that the constitutional rule requiring bills to be read on three several days be suspended and that House bill No. 398 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—118.

Adams of Harris.	Baker.
Adams of Jasper.	Barron.
Adamson.	Beck.
Adkins.	Boyd.
Alsup.	Bradley.
Anderson.	Brooks.

Bryant.	Justiss.
Burns of Walker.	Kayton.
Burns	Keller.
of McCulloch.	Lee.
Carpenter.	Lemens.
Claunch.	Leonard.
Coltrin.	Lilley.
Cox of Limestone.	McCombs.
Cunningham.	McDougald.
Dale.	McGill.
Daniel.	McGregor.
Davis.	Magee.
DeWolfe.	Martin.
Dodd.	Mathis.
Donnell.	Metcalfe.
Dowell.	Moffett.
Dunlap.	Moore.
Dwyer.	Munson.
Elliott.	Murphy.
Engelhard.	Olsen.
Farrar.	O'Quinn.
Ferguson.	Patterson.
Finn.	Pope.
Fisher.	Ramsey.
Forbes.	Ratliff.
Ford.	Ray.
Fuchs.	Reader.
Gilbert.	Richardson.
Giles.	Sanders.
Goodman.	Satterwhite.
Graves.	Savage.
Greathouse.	Shelton.
Grogan.	Smith of Bastrop.
Hanson.	Sparkman.
Hardy.	Stephens.
Harman.	Stevenson.
Harrison	Steward.
of El Paso.	Sullivant.
Hatchitt.	Tarwater.
Herzik.	Terrell
Hill.	of Val Verde.
Hines.	Towery.
Holder.	Turner.
Holland.	Van Zandt.
Holloway.	Vaughan.
Hoskins.	Wagstaff.
Howsley.	Walker.
Hubbard.	Warwick.
Hughes.	Weinert.
Jackson.	West of Coryell.
Johnson	West of Cameron.
of Dallam.	Westbrook.
Johnson	Wiggs.
of Dimmit.	Wyatt.
Jones of Shelby.	Young.
Jones of Atascosa.	

Nays—13.

Akin.	Laird.
Albritton.	Sherrill.
Bounds.	Smith of Wood.
Brice.	Strong.
Cox of Lamar.	Terrell
Farmer.	of Cherokee.
Kennedy.	Veatch.

Absent.

Bedford.	Lockhart.
Bond.	Long.
Caven.	Mehl.
Coombes.	Morse.
Duvall.	Nicholson.
Harrison	Petsch.
of Waller.	Rogers.
Hefley.	Rountree.
Johnson of Morris.	Scott.
Lasseter.	

The Speaker then laid House bill No. 398 before the House on its third reading and final passage.

The bill was read third time.

Mr. Pope offered the following amendment to the bill:

Amend House bill No. 398 by adding between lines 12 and 13, page 2, the following:

"To pay inspectors to enforce Penal Statute 1037 of the 1925 Revised Statutes of Texas, relating to correctly testing milk, cream and butter fat to August 31, 1931, the sum of \$1750. (No inspector to receive more than \$110 per month.) (Caption of bill be amended accordingly.)"

Mr. Kennedy offered the following amendment to the amendment:

Strike out "1750" in amendment; add "\$3500" in its place.

Mr. Satterwhite moved the previous question on the pending amendments and the bill, and the main question was ordered.

Question first recurring on the amendment to the amendment, it was adopted.

Question then recurring on the amendment as amended, it was adopted by the following vote:

Yeas—114.

Adams of Harris.	Dale.
Adams of Jasper.	Davis.
Adamson.	Dodd.
Adkins.	Donnell.
Albritton.	Dowell.
Baker.	Dwyer.
Beck.	Elliott.
Bond.	Engelhard.
Bounds.	Farmer.
Boyd.	Farrar.
Bradley.	Ferguson.
Brice.	Finn.
Bryant.	Fisher.
Burns of Walker.	Forbes.
Burns	Fuchs.
of McCulloch.	Gilbert.
Carpenter.	Giles.
Coltrin.	Goodman.
Cox of Lamar.	Graves.
Cox of Limestone.	Greathouse.
Cunningham.	Hanson.

Hardy.	Olsen.
Harman.	O'Quinn.
Harrison	Patterson.
of El Paso.	Petsch.
Hatchitt.	Pope.
Herzik.	Ramsey.
Hines.	Ratliff.
Holland.	Ray.
Holloway.	Reader.
Hoskins.	Richardson.
Howsley.	Rogers.
Hubbard.	Sanders.
Hughes.	Satterwhite.
Jackson.	Scott.
Johnson	Shelton.
of Dallam.	Sherrill.
Johnson	Smith of Bastrop.
of Dimmit.	Smith of Wood.
Jones of Shelby.	Sparkman.
Jones of Atascosa.	Stephens.
Justiss.	Stevenson.
Kayton.	Steward.
Keller.	Sullivant.
Kennedy.	Tarwater.
Lee.	Terrell
Lemens.	of Cherokee.
Leonard.	Terrell
Lilley.	of Val Verde.
Long.	Towery.
McDougald.	Van Zandt.
McGill.	Veatch.
McGregor.	Wagstaff.
Magee.	Walker.
Martin.	Warwick.
Mathis.	Weinert.
Metcalfe.	West of Coryell.
Moffett.	Westbrook.
Moore.	Wyatt.
Munson.	Young.

Nays—14.

Akin.	Harrison
Alsup.	of Waller.
Caven.	Hill.
Claunch.	Holder.
DeWolfe.	McCombs.
Ford.	Murphy.
Grogan.	Savage.
	Vaughan.

Absent.

Anderson.	Lasseter.
Barron.	Lockhart.
Bedford.	Mehl.
Brooks.	Morse.
Coombes.	Nicholson.
Daniel.	Rountree.
Dunlap.	Strong.
Duvall.	Turner.
Hefley.	West of Cameron.
Johnson of Morris.	Wiggs.
Laird.	

On motion of Mr. Sanders, by unanimous consent, the caption of the

bill was ordered amended to conform to all changes made in the body of the bill.

On motion of Mr. Sanders, by unanimous consent, the totals of the bill were ordered amended to conform to the changes made in the body of the bill.

House bill No. 398 was then passed by the following vote:

Yeas—118.

Adams of Harris.	Hill.
Adams of Jasper.	Hines.
Adamson.	Holder.
Adkins.	Holland.
Akin.	Holloway.
Albritton.	Hoskins.
Alsup.	Howsley.
Anderson.	Hughes.
Beck.	Jackson.
Bounds.	Johnson
Boyd.	of Dallam.
Bradley.	Johnson
Brice.	of Dimmit.
Bryant.	Jones of Shelby.
Burns of Walker.	Jones of Atascosa.
Burns	Justiss.
of McCulloch.	Kayton.
Carpenter.	Keller.
Caven.	Kennedy.
Claunch.	Lee.
Coltrin.	Lemens.
Cox of Lamar.	Lilley.
Cox of Limestone.	McCombs.
Cunningham.	McDougald.
Davis.	McGill.
DeWolfe.	McGregor.
Donnell.	Magee.
Dowell.	Martin.
Dunlap.	Mathis.
Dwyer.	Metcalfe.
Elliott.	Moffett.
Engelhard.	Moore.
Farrar.	Munson.
Ferguson.	Olsen.
Finn.	O'Quinn.
Fisher.	Patterson.
Forbes.	Petsch.
Ford.	Pope.
Fuchs.	Ramsey.
Gilbert.	Ratliff.
Giles.	Ray.
Goodman.	Reader.
Graves.	Richardson.
Greathouse.	Rogers.
Grogan.	Sanders.
Hanson.	Satterwhite.
Hardy.	Savage.
Harman.	Scott.
Harrison	Shelton.
of El Paso.	Smith of Bastrop.
Harrison	Sparkman.
of Waller.	Stephens.
Hatchitt.	Stevenson.
Herzik.	Steward.

Sullivant.	Wagstaff.
Tarwater.	Walker.
Terrell	Warwick.
of Val Verde.	Weinert.
Towery.	West of Coryell.
Turner.	Westbrook.
Van Zandt.	Wyatt.
Veatch.	Young.

Nays—7.

Baker.	Sherrill.
Dodd.	Smith of Wood.
Farmer.	Vaughan.
Laird.	

Absent.

Barron.	Lockhart.
Bedford.	Long.
Bond.	Mehl.
Brooks.	Morse.
Coombes.	Murphy.
Dale.	Nicholson.
Daniel.	Rountree.
Duvall.	Strong.
Hefley.	Terrell
Hubbard.	of Cherokee.
Johnson of Morris.	West of Cameron.
Lasseter.	Wiggs.
Leonard.	

BILL AND RESOLUTION SIGNED BY THE SPEAKER.

The Speaker signed, in the presence of the House, after giving due notice thereof and their captions had been read severally, the following enrolled bill and resolution:

S. C. R. No. 11, Urging economy in State affairs.

S. B. No. 6, "An Act relating to the compensation of district attorneys of only one county in which county there are two or more district courts with concurrent criminal jurisdiction."

HOUSE BILL NO. 399 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 399, A bill to be entitled "An Act making certain appropriations out of the general revenues of the State of Texas for the several institutions and departments of State government as named herein, for the balance of the fiscal year ending August 31, 1931, and declaring an emergency."

The bill was read second time.

Mr. Gilbert moved that further consideration of the bill be postponed until 10 o'clock a. m., Tuesday, March 3, 1931.

Question—Shall the motion to postpone prevail?

HOUSE BILL ON FIRST READ- ING.

(By Unanimous Consent.)

The following House bill, introduced today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Young:

H. B. No. 694, A bill to be entitled "An Act providing that in counties of a certain population and property valuation the sheriff may appoint certain deputies, with the consent of the commissioners court; providing the means and manner of appointment and payment of salaries, and prescribing the maximum salary, and declaring an emergency."

Referred to Committee on Counties.

BILLS ORDERED NOT PRINTED.

(By Unanimous Consent.)

On motion of Mr. Pope, Senate bills Nos. 30 and 254 were ordered not printed.

On motion of Mr. Beck, House bill No. 486 was ordered not printed.

On motion of Mr. Steward, House bill No. 466 was ordered not printed.

RECESS.

Mr. Bond moved that the House recess to 9:30 o'clock a. m. tomorrow.

Mr. Johnson of Dimmit moved that the House recess to 9 o'clock a. m. tomorrow.

The motion of Mr. Johnson of Dimmit prevailed and the House, accordingly, at 12:15 o'clock p. m., took recess to 9 o'clock a. m. tomorrow.

APPENDIX.

STANDING COMMITTEE RE- PORTS.

The following committees have filed favorable reports on bills, as follows:

Constitutional Amendments: House joint resolution No. 24.

Education: House bills Nos. 467, 470, 487, 530 and Senate bill No. 139.

Insurance: House bills Nos. 87 and 567.

Revenue and Taxation: House bills Nos. 31, 381, 440, 466, 505, 514, 515 and 563.

Municipal and Private Corporations: House bills Nos. 388, 522 and 615.

Judiciary: House bills Nos. 35 and 458.

School Districts: Senate bills Nos. 30 and 254.

The following committees have filed adverse reports on bills, as follows:

Constitutional Amendments: House joint resolution No. 10.

Judiciary: House bill No. 428.

Municipal and Private Corporations: House bill No. 421.

COMMUNICATION FROM ATTORNEY GENERAL.

The following communication from the Attorney General was ordered printed in the Journal:

State of Texas,

Offices of the Attorney General,
Austin.

No. 2828.

Constitution—Amendment, Section 5 of Article 3, State Constitution.
Construed.

1. Each house of the Legislature, by a four-fifths vote, may determine its own order of business.

2. Having legally adopted its order of business, bills or resolutions may be introduced in, or considered by, either house, in accordance therewith, not being restrained by said amendment.

Offices of the Attorney General.

February 13, 1931.

Hon. Fred H. Minor, Speaker of the House of Representatives, Capitol.

Dear Sir: Your communication of the 12th instant, addressed to the Hon. James V. Allred, Attorney General, has been referred to me for reply.

Your communication is as follows:

"At the general election held in November last, Section 5 of Article 3 of the State Constitution was amended as follows: (Here follows said amendment, which is copied below.)

"Pursuant thereto, the House of Representatives, on the 21st day of January, as shown on page 102 of the House Journal, adopted by a vote of one hundred and thirty-three yeas and no noes, the following resolution:

"Whereas, At the general election on November 4, 1930, Section 5 of Article III of the Constitution of Texas was amended so as to hereafter read as follows, to-wit:

"The Legislature shall meet every two years at such times as may be provided by law and at other times when convened by the Governor. When convened in Regular Session, the first thirty days thereof shall be devoted to the introduction of bills and resolutions, acting upon emergency appropriations, passing upon the confirmation of the recess appointees of the Governor and such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided, that during the succeeding thirty days of the Regular Session of the Legislature the various committees of each house shall hold hearings to consider all bills and resolutions and other matters then pending; and such emergency matters as may be submitted by the Governor; provided further, that during the following sixty days the Legislature shall act upon such bills and resolutions as may be then pending and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature; provided, however, either house may otherwise determine its order of business by an affirmative vote of four-fifths of its membership.

"Whereas, Under said amendment it is specifically provided that either house may otherwise determine its order of business by an affirmative vote of four-fifths of its membership; therefore, be it

"Resolved by the House of Representatives, by an affirmative vote of four-fifths of its members, That the order of business is hereby determined to be otherwise, and except as herein expressly provided the rules as printed in the Manual of the Forty-first Legislature, with the amendments thereto shown in the Journal, shall govern the procedure in the House and may be amended as therein provided.

"1. No bill shall be considered or tabled, unless it has been first referred to a committee, and reported therefrom. Bills and resolutions introduced during the first sixty days may be considered by committees and in the House and disposed of at any time during the session; provided, however, no bill or joint resolution shall be introduced after the first sixty days of a Regular Session of the Legislature, except by consent of a two-thirds vote of the House; and if so ordered by a two-thirds vote, such bill or joint resolution shall then be referred to a committee for consideration the same as other bills and joint resolutions. It is further provided that after the first sixty days when a member desires to introduce a bill or joint resolution, he shall be allowed five minutes in which to explain the purposes of his bill, the vote then being taken without further debate.

"In view of the adoption of the foregoing resolution, the House of Representatives has heretofore not only permitted the introduction of bills, but committee hearings have been held during the first thirty-day period, and some bills have been considered and passed by the House. The first thirty-day period has now expired. Under the procedure adopted by virtue of the foregoing resolution, I desire to submit the following questions, to-wit:

"(a) Can bills and resolutions be introduced in the House during the succeeding thirty-day period without further action on the part of the membership?

"(b) Has the House acted legally and in conformity with the Constitution in permitting its committees to consider bills and resolutions during the first thirty days, and in passing upon the same on the floor of the House, in view of the adoption of the resolution hereinabove set forth?

"(c) Can the House legally consider and pass bills and resolutions during the succeeding thirty-day period without further action upon the part of the membership, in view of the adoption of the resolution hereinabove set forth?

"(d) In view of the adoption of the resolution above herein set out, may bills and resolutions be introduced in the House and committee

hearings held thereon after the expiration of the first sixty-day period, where such bills or resolutions have been introduced by consent of a two-thirds vote of the House as in such resolution provided?"

It will be noted that the portion of said amendment pertinent to this inquiry falls into four subdivisions, and these subdivisions are printed separately and numbered, and the several subdivisions are separated into sentences, so that they may be the more easily held in mind and comprehended.

1.

When convened in regular session, (a) the first thirty days thereof shall be devoted to the introduction of bills and resolutions; (b) acting upon emergency appropriations; (c) passing upon the confirmation of the recess appointees of the Governor; (d) and such emergency matters as may be submitted by the Governor in special messages to the Legislature.

2.

Provided, that during the succeeding thirty days of the regular session of the Legislature, (a) the various committees of each house shall hold hearings to consider all bills and resolutions, and other matters then pending; (b) and such emergency matters as may be submitted by the Governor.

3.

Provided further, that during the following sixty days, (a) the Legislature shall act upon such bills and resolutions as may be then pending; (b) and upon such emergency matters as may be submitted by the Governor in special messages to the Legislature.

4.

Provided, however, either house may otherwise determine its order of business by an affirmative vote of four-fifths of its membership.

The first three of the above subdivisions are clearly and plainly intended to provide an order of business or methods of procedure for the Legislature. The last proviso, which is set out as subdivision four above, clearly indicates that the Legislature, in framing said amendment, understood same to contain or provide merely an order of business, otherwise the provision that "either house

may otherwise determine its order of business, etc.," would be meaningless.

Again, it may be seriously questioned whether the language contained in said amendment, even without the final proviso, should be construed so as to confine the Legislature exclusively to the order of business set out in the amendment. This is especially true of the second and third subdivisions, which cover the second thirty and last sixty days of the session. The Legislature is not expressly forbidden to pursue an order of business different from that laid down in the amendment and, if forbidden at all, it would be merely by inference or implication, in my mind, does not arise necessarily from the language used.

For instance, if the Legislature can do nothing during the second thirty-day period except the things prescribed, then both the Senate and the House, as bodies, can hold no sessions nor transact any kind of business, as such, because the amendment provides only that the committees of each house shall consider bills and resolutions and other pending matters and such emergency matters as may be submitted by the Governor. There is nothing named for the Legislature to do, unless the language is intended to mean that the Legislature, instead of the committees, are to consider emergency matters submitted by the Governor, which was probably meant to be said. A construction which brought about such a result would hardly be deemed reasonable, much less necessary. Standing alone, the language used to prescribe the order of business for the second thirty days is not such as to prevent the introduction and consideration of bills and resolutions in either house, and I believe the same may be said of the rules of order prescribed for the last sixty days of the session.

Whatever effect may be given to the language used in the first three subdivisions of said amendment, I am clearly of the opinion that the last proviso places beyond doubt or cavil the right of either house to "otherwise determine its order of business" by a four-fifths vote.

Provisos and exceptions are similar and are intended to restrain the

preceding enacting clause or in some manner to modify it. The general intent of the enacting clause will be controlled by the particular intent subsequently expressed by proviso. 2 Southerland's Statutory Construction, Section 351; 50 Corpus Juris, page 834.

In the case of Campbell, Receiver, vs. Wiggins, Tax Collector, our Supreme Court had under consideration the construction of a statute which in general terms exempted the property of the I. & G. N. Railway Company from taxation, but by proviso excepted certain property from said exemption. Speaking through Justice Gaines, the court gives the following as the effect of a proviso:

"Let it be admitted, for the sake of the argument, that the clause which declares the exemption, if it stood alone, would embrace property acquired jointly by the two railroads, or even that acquired exclusively by the Great Northern. Which is to control—that clause or the proviso? The enacting clause directly points out what is to be exempt, but defines what is not exempted by implication only. The proviso goes further, and declares affirmatively that certain property shall not be exempt. In the language of Chief Justice Marshall: 'The proviso is generally intended to restrain the enacting clause, and to except something which would otherwise have been within it,' etc. Wayman vs. Southard, 10 Wheat., 30. 'The general intent must be controlled by the particular intent subsequently expressed.' Suth. on Stat. Con. The sole purpose of the proviso is to exclude from the operation of the exempting clause what might otherwise be construed to be within it, and the *meaning being clear, it must govern.*" (Italics mine.) 85 Texas, 424, 428.

To the same effect is the holding in the following cases:

Potter et al. vs. Robison, Land Commissioner, 102 Texas, 448.

Galveston Co. vs. Gorman, 49 Texas, 287.

Quanah vs. White, 88 Texas, 14.

It may be contended that by using the mandatory term "shall," in framing said amendment, the Legislature intended that the order of business so directed must be followed, and the mere fact that the final proviso was

inserted might indicate this. This unquestionably would not prevent the proviso from having a controlling effect on the entire preceding provisions; the fact that the provisions were deemed mandatory might make a proviso necessary. If the language of the amendment is such as to make the order of business stated therein merely suggestive or permissible, then no proviso would be necessary. Whether said language was considered by the Legislature, which framed the amendment, as mandatory or merely permissive, the Legislature clearly intended to place the matter beyond question or doubt by adding the final proviso under discussion.

In the light of the foregoing, I will make categorical answers to your several questions as follows:

(a) "Can bills and resolutions be introduced in the House during the succeeding thirty-day period without further action on the part of the membership?" I answer, yes.

(b) "Has the House acted legally and in conformity with the Constitution in permitting its committees to consider bills and resolutions during the first thirty days, and in passing upon the same on the floor of the House, in view of the adoption of the resolution hereinabove set forth?" This question is answered, yes.

(c) "Can the House legally consider and pass bills and resolutions during the succeeding (second) thirty-day period without further action upon the part of the membership, in view of the adoption of the resolution hereinabove set forth?" Answer, yes.

(d) "In view of the adoption of the resolution above herein set out, may bills and resolutions be introduced in the House and committee hearings held thereon after the expiration of the first sixty-day period, where such bills or resolutions have been introduced by consent of a two-thirds vote of the House as in such resolution provided?" To this question I also answer, yes.

It appears from the record that the resolution whereby the House made and determined its own rules of order was adopted unanimously. Thereby the House construed the amendment as giving to that body the right to make its own rules of order if done by a four-fifths vote.

Under many decisions of our Supreme Court, the presumption obtains that the construction placed on a provision of the Constitution by the Legislature is correct and that it will be followed by the courts unless it is clearly wrong. It ought to strengthen that presumption in this case that there are several eminent lawyers among the membership of the House and that the resolution was adopted by more than the necessary four-fifths of the entire membership and without a dissenting vote of any member present.

With very great respect, I beg to be,

Yours very truly,

(Signed) F. O. McKINSEY,
Assistant Attorney General.

FOM:GC

This opinion has been considered in conference, approved, and is now ordered recorded.

(Signed)

JAMES V. ALLRED,
Attorney General of Texas.

SEVENTEENTH DAY.

(Continued.)

(Friday, February 20, 1931.)

The House met at 9 o'clock a. m., and was called to order by Speaker Minor.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time and referred to the appropriate committees, as follows:

By Mr. Pope:

H. B. No. 658, A bill to be entitled "An Act to regulate all personal, physical, mental endurance contests in public competition for prizes and awards and admission fees; prescribing penalties, and declaring an emergency."

Referred to Committee on Criminal Jurisprudence.

By Mr. Hubbard, Mr. Caven and Mr. Holloway:

H. B. No. 659, A bill to be entitled "An Act to amend House bill No. 18,